

APR 10 2006

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ABELARDO ABARCA-OCAMPO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-75187

Agency No. A75-771-033

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 5, 2006^{**}

Before: HAWKINS, McKEOWN, and PAEZ, Circuit Judges.

Abelardo Abarca-Ocampo, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' order summarily affirming an

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

immigration judge's ("IJ") order denying him cancellation of removal. We dismiss the petition for review.

Abarca-Ocampo's contention that the IJ denied his right to due process by failing to consider the length of time he has resided in the United States, is in effect a challenge to the IJ's hardship determination. We lack jurisdiction to review the IJ's discretionary determination that Abarca-Ocampo failed to demonstrate exceptional and extremely unusual hardship. *See Martinez-Rosas v. Gonzales*, 424 F.3d 926, 929-30 (9th Cir. 2005).

To the extent Abarca-Ocampo challenges the IJ's interpretation of the hardship standard, we lack jurisdiction because Abarca-Ocampo failed to raise the challenge before the BIA. *See Barron v. Ashcroft*, 358 F.3d 674, 677 (9th Cir. 2004) (explaining that exhaustion is jurisdictional).

PETITION FOR REVIEW DISMISSED.